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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/071,578	02/08/2002	Takechiyo Nakamitsu	15251	2668
7590	10/04/2004			EXAMINER
Paul J. Esatto, Jr. Scully, Scott, Murphy & Presser 400 Garden City Plaza Garden City, NY 11530			LACYK, JOHN P	
			ART UNIT	PAPER NUMBER
				3736

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/071,578	NAKAMITSU ET AL.	
	Examiner John P Lacyk	Art Unit 3736	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<b>Period for Reply</b>			
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b>			
<p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.      2a)<input type="checkbox"/> This action is <b>FINAL</b>.      2b)<input type="checkbox"/> This action is non-final.      3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
<b>Disposition of Claims</b>			
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-63</u> is/are pending in the application.      4a) Of the above claim(s) _____ is/are withdrawn from consideration.      5)<input type="checkbox"/> Claim(s) _____ is/are allowed.      6)<input type="checkbox"/> Claim(s) _____ is/are rejected.      7)<input type="checkbox"/> Claim(s) _____ is/are objected to.      8)<input checked="" type="checkbox"/> Claim(s) <u>1-63</u> are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b>			
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.      10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.          Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).          Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).      11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p>			
<b>Priority under 35 U.S.C. § 119</b>			
<p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).      a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:          1.<input type="checkbox"/> Certified copies of the priority documents have been received.          2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.          3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>			
<p>* See the attached detailed Office action for a list of the certified copies not received.</p>			
<b>Attachment(s)</b>			
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)      2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)      3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)          Paper No(s)/Mail Date _____</p>			
<p>4)<input type="checkbox"/> Interview Summary (PTO-413)          Paper No(s)/Mail Date. _____      5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)      6)<input type="checkbox"/> Other: _____</p>			

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-34, 41-47 and 51-59, drawn to a medical control apparatus, classified in class 128, subclass 897.
  - II. Claims 35-40, 48-50 and 60-63, drawn to a maintenance method, classified in class 702, subclass 184.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions they have different modes of operation since Group I is to controlling an medical apparatus while Group II is directed to a maintenance method for performing maintenance on a computer system.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P Lacyk whose telephone number is 703-308-2995.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Lacyk  
Primary Examiner  
Art Unit 3736

J.P. Lacyk